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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------|------------------|
| 09/965,740 | 09/28/2001 | Christopher D. Batich | QMT1.1-CIP-US | 4440 |
| 3775 7590 06/09/2009 ELMAN TECHNOLOGY LAW, P.C. P. O. BOX 209 SWARTHMORE, PA 19081 | | | | |
| EXAMINER ANDERSON, CATHARINE L | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3761 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/965,740

Applicant(s)

BATICH ET AL.

Examiner

Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30,31,34-36,44-46,51,67-69,72,86-89 and 91-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30,31,34-36,44-46,51,67-69,72,86-89 and 91-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 30-31, 34-36, 44-46, 51, 67-69, 72, 86-89, and 91-94 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 30-31 34-36, 44-46, 67-69, 72, 86-89, and 91-93 are rejected under 35 U.S.C. 102(e) as being anticipated by Kolb et al. (6,787,856).

4. Kolb discloses a composition comprising a substrate having a coating 70 thereon, as disclosed in column 6, lines 9-15. The coating consists of polymeric molecules formed by polymerization of a diallyldialkylammonium salt, as disclosed in column 6, lines 16-27. The coating exhibits antimicrobial activity due to the polymeric molecules, as disclosed in column 6, lines 32-37. The polymeric molecules are bound to the substrate and are intended to remain bound to the substrate during use of the absorbent article. Therefore the polymeric molecules are considered to be non-leachably bound to the substrate.

5. With respect to claims 31, 67, 72, and 91-92, the polymeric molecules comprise diallyldimethylammonium salt, as disclosed in column 6, lines 16-27.
6. With respect to claims 34 and 93, the composition comprises a diaper, as disclosed in column 1, lines 13-15.
7. With respect to claims 35-36, 44-46, 68-69, 86-89 the substrate is the absorbent assembly, as disclosed in column 6, lines 9-15, which comprises cellulose, synthetic polymers, wood fibers, or superabsorbent material, and a woven or nonwoven flexible matrix, as disclosed in column 7, lines 9-45.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 51 and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolb et al. (6,787,856).
10. Kolb discloses all aspects of the claimed invention with the exception of the polymeric molecules being covalently bonded to surface sites of the substrate. Kolb remains silent as to the method of bonding the polymeric molecules to the substrate, but discloses in column 1, lines 44-50, that the polymeric molecules are binding agents fixed on the substrate. It would have been obvious to one of ordinary skill in the art at the time of invention to affix the polymeric molecules of Kolb to the substrate with

covalent bonds, for the predictable result of providing a binding agent that is sufficient to remain bonded to the substrate during use of the swim pant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./
Examiner, Art Unit 3761

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/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761